

# House Daily Reader

**Thursday, February 16, 2012**

[illegible]

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

400T0168

## SENATE COMMERCE AND ENERGY ENGROSSED NO. **SB 11** - 1/31/2012

Introduced by: The Committee on Commerce and Energy at the request of the Governor's  
Office of Economic Development

1 FOR AN ACT ENTITLED, An Act to authorize the Governor's Office of Economic  
2 Development to create and administer a working capital loan program.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 1-53 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 There is established within the state treasury a fund to be known as the small business credit  
7 initiative fund for the purpose of making loans for economic development as permitted by the  
8 Small Business Jobs Act of 2010, 12 U.S.C. 54.

9 Section 2. That chapter 1-53 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 The Governor's Office of Economic Development may accept, expend, or loan for the  
12 purposes of this Act any funds previously received or to be obtained from federal sources and  
13 any funds to be obtained from gifts, contributions, or any other source if such acceptance and  
14 expenditure is reported as required by § 4-7-7.2.



1       Section 3. That chapter 1-53 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3       Any repayment of loans and interest thereon shall be receipted into the small business credit  
4 initiative fund and expended by the Governor's Office of Economic Development for the  
5 following purposes:

6       (1)   The payment of administrative costs as permitted pursuant to U.S. Office of  
7           Management and Budget Circular A-87, Revised, as applicable, as in effect on  
8           January 1, 2012;

9       (2)   The payment of taxes and liens and for the procuring of legal services and any other  
10          services necessary to protect, recover, maintain, or liquidate the assets of the small  
11          business credit initiative fund as permitted pursuant to U.S. Office of Management  
12          and Budget Circular A-87, Revised, as applicable, as in effect on January 1, 2012;  
13          and

14       (3)   The purpose of making loans for economic development as permitted by the Small  
15          Business Jobs Act of 2010, 12 U.S.C. 54.

16       Section 4. That chapter 1-53 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18       The Governor's Office of Economic Development may take title by foreclosure or transfer  
19 in lieu of foreclosure to any property given as security if the acquisition is necessary to protect  
20 or collect any small business credit initiative loan and may sell, transfer, or convey any such  
21 property to any responsible buyer.

22       Section 5. That chapter 1-53 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24       The meetings and deliberations of the Governor's Office of Economic Development

1 concerning small business credit initiative loans are confidential and are exempt from public  
2 disclosure. Any documentary material or data made or received by the Governor's Office of  
3 Economic Development for the purpose of acting upon an application for a small business credit  
4 initiative loan or administering the loan, to the extent that such material or data consists of trade  
5 secrets or commercial or financial information regarding the operation of such business, are not  
6 considered public records, and are exempt from disclosure. Nothing in this section prohibits the  
7 disclosure of confidential information to the extent necessary to collect or recoup the loan or as  
8 may be required under applicable federal law.

# State of South Dakota

## EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

159T0288

### SENATE ENGROSSED NO. **SB 62** - 1/26/2012

Introduced by: Senators Gray, Lederman, Maher, Nelson (Tom), Nygaard, and Rave and  
Representatives Solum, Greenfield, Hawley, and Rozum

1 FOR AN ACT ENTITLED, An Act to allow certain alcoholic beverage licensees to charge a  
2 corkage fee for serving wine supplied by customers and to allow customers to remove a  
3 partially consumed bottle of wine from certain alcoholic beverage licensees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 35-1 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Notwithstanding the provisions of § 35-1-5.6, a licensee that is licensed to sell wine on-sale  
8 may permit a customer to bring a sealed and unopened bottle of wine onto the licensed premises  
9 for consumption by the customer while eating a meal that was prepared by the licensee and that  
10 was served at a table on the licensed premises. The licensee may charge a corkage fee for  
11 serving wine supplied by a customer. The customer may carry out the unconsumed portion of  
12 the bottle of wine if it is securely resealed by the licensee with a cork or other similar cap and  
13 placed in a sealed bag or other container. The licensee shall also attach the receipt for the meal  
14 and any corkage fee to the bag or container. A bottle of wine that is recorked and sealed as  
15 provided in this section is not a violation of the provisions of § 35-1-9.1 if the cork and the seal



1 have not been disturbed.

2 Section 2. That chapter 35-1 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 A licensee that is licensed to sell wine on-sale may permit a customer to carry out the  
5 unconsumed portion of a bottle of wine if the customer purchased the bottle of wine from the  
6 licensee and consumed a portion of it with a meal that was prepared and served by the licensee  
7 at a table on the licensed premises. The licensee shall securely reseal the bottle of wine with a  
8 cork or other similar cap and place the bottle in a sealed bag or other container. The licensee  
9 shall also attach a receipt for the meal and the wine to the bag or container. A bottle of wine that  
10 is recorked and sealed as provided in this section is not a violation of the provisions of § 35-1-  
11 9.1 if the cork and the seal have not been disturbed.

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

914T0402

## SENATE COMMERCE AND ENERGY ENGROSSED NO. **SB 65** - 1/26/2012

Introduced by: Senators Rampelberg, Cutler, Hundstad, Johnston, Krebs, Lederman, Novstrup (Al), Olson (Russell), and Tieszen and Representatives Hunt, Abdallah, Dennert, Lust, Turbiville, and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise the list of products offered to consumers by motor  
2 vehicle dealers and sales finance companies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-3A-5 be amended to read as follows:

5 54-3A-5. In addition to the finance charge, a creditor may contract for, and receive the  
6 following additional charges in connection with an installment sales contract if such charges are  
7 itemized and disclosed to the buyer:

8 (1) Official fees and taxes;

9 (2) Charges for guaranteed asset protection waivers, or credit life, accident, health, loss  
10 of income, property, or liability insurance. However any insurance is optional, and  
11 the consumer shall be informed, in writing, that any insurance is optional; and

12 (3) Charges for debt cancellation contracts and debt suspension contracts, as defined in  
13 § 51A-1-2 and sections 2 and 3 of this Act, if the debt cancellation contract or debt  
14 suspension contract is a contract of a depository institution or a licensee pursuant to



chapter 54-4 authorized to provide such coverage, and the contract is sold directly by the authorized depository institution or licensee pursuant to chapter 54-4, or by a retailer acting as an agent for the authorized depository institution or licensee pursuant to chapter 54-4. However, any debt cancellation contract or debt suspension contract is optional, and the consumer shall be informed, in writing, that any such contract is optional.

Any such charges ~~must~~ shall be disclosed and explained to the consumer prior to signing any agreement to repay a consumer credit obligation. Any such charges ~~must~~ shall be separately agreed to in writing and separately signed by the consumer.

Section 2. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this chapter, the term, debt cancellation contract, means a term of an extension of credit or contractual arrangement modifying terms of an extension of credit under which a licensee agrees to cancel all or part of a customer's obligation to repay an extension of credit from the licensee upon the occurrence of a specified event. The contract may be separate from or a part of other extension of credit documents. The term does not include installment payment deferral arrangements in which the triggering event is the customer's unilateral election to defer repayment, or the licensee's unilateral decision to allow a deferral of repayment.

Section 3. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this chapter, the term, debt suspension contract, means a term of an extension of credit or contractual arrangement modifying terms of an extension of credit under which a licensee agrees to suspend all or part of a customer's obligation to repay an extension of credit from the licensee upon the occurrence of a specified event. The contract may be

1 separate from or a part of other extension of credit documents. The term does not include  
2 installment payment deferral arrangements in which the triggering event is the customer's  
3 unilateral election to defer repayment, or the licensee's unilateral decision to allow a deferral of  
4 repayment.

5 Section 4. That chapter 54-4 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 A licensee pursuant to this chapter may enter into debt cancellation contracts and debt  
8 suspension contracts and charge a fee for those contracts in connection with any extension of  
9 credit that it makes, purchases, or of which it accepts assignment.

10 Section 5. That § 58-1-3 be amended to read as follows:

11 58-1-3. No provision of this title applies with respect to:

- 12 (1) Fraternal benefit societies, except as stated in chapter 58-37A;
- 13 (2) Bail bondsmen, other than corporate sureties and their agents, except as stated in  
14 chapter 58-22;
- 15 (3) Motor vehicle service contracts which are contracts or agreements to perform or  
16 indemnify for a specific duration the repair, replacement, or maintenance of motor  
17 vehicles for operational or structural failure due to a defect in materials,  
18 workmanship, or normal wear and tear, with or without additional provisions for  
19 incidental payment of indemnity under limited circumstances, including towing,  
20 rental, and emergency road service. Consideration for a motor vehicle service  
21 contract shall be stated separately from the price of the motor vehicle;
- 22 (4) Service agreements or extended warranty plans for which the primary purpose is to  
23 provide service, repair, or replacement on consumer goods or products including  
24 appliances, merchandise, or equipment, or mechanical/electrical systems in single or

multiple-family dwellings. Incidental indemnity payments under such plans where service, repair, or replacement is not feasible or economical does not void this exemption;

(5) Any person, trust, or other entity proven to be under the exclusive regulatory authority of the federal government or another state agency;

(6) Any agreement to provide liability protection entered into pursuant to chapter 1-24 is exempt from the regulatory requirements of Title 58, except to forms of insurance coverage provided by an insurer otherwise subject to the insurance laws of this state;

(7) Any church plan, as defined in section 414(e) of the Internal Revenue Code of 1986, as amended through December 31, 1999, and section (3)(33)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S. C. § 1002(33)(C)(i)); or any church benefits board, as described in section 414(e)(3)(A) of the Internal Revenue Code of 1986, as amended through December 31, 1999, and section (3)(33)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(33)(C)(i));

(8) Any debt cancellation contract or debt suspension contract as defined by subdivisions 51A-1-2(10) and 51A-1-2(11) and sections 2 and 3 of this Act; or

(9) Any damage guarantee program for renters administered by a nonprofit corporation that is recognized as an exempt organization under § 501(c)(3) of the Internal Revenue Code and whose mission is to increase the availability of affordable housing to low and moderate income tenants.

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

940T0120

## HOUSE HEALTH AND HUMAN SERVICES ENGROSSED NO. **SB 72** - 2/14/2012

Introduced by: Senators Hunhoff (Jean), Adelstein, Begalka, Fryslie, Hansen (Tom), Heineman, Kraus, Krebs, Nelson (Tom), Rhoden, Schlekeway, Tidemann, Tieszen, and Vehle and Representatives Romkema, Blake, Bolin, Boomgarden, Gibson, Hunhoff (Bernie), Kirkeby, Moser, Munsterman, Street, Verchio, and Wick

1 FOR AN ACT ENTITLED, An Act to regulate persons offering speech-language pathology to  
2 the public.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Board," the Board of Examiners for Speech-Language Pathology;

6 (2) "Department," the Department of Health;

7 (3) "Endoscopy," an imaging procedure included within the scope of practice for  
8 speech-language pathologists in which a speech-language pathologist uses a  
9 flexible/nasal endoscopy, rigid/oral endoscopy, or stroboscopy for the purpose of  
10 evaluating and treating disorders of speech, voice, resonance, and swallowing  
11 function;

12 (4) "Mentorship," the direct on-site supervision and monitoring of a speech-language  
13 pathologist with a provisional license by a licensed speech-language pathologist;



- 1       (5) "Provisional license," the license issued to an applicant who is practicing  
2       speech-language pathology while completing the supervised postgraduate  
3       professional experience following completion of master's degree in speech-language  
4       pathology;
- 5       (6) "Speech-language pathologist," any person who engages in the practice of  
6       speech-language pathology and who meets the qualifications set forth in this Act;
- 7       (7) "Speech-language pathology assistant," any person who assists in the practice of  
8       speech-language pathology and who meets the qualifications set forth in this Act; and
- 9       (8) "Telepractice," "telespeech," "telespeech-language pathology," or "telehealth,"  
10      whether used separately or together. Telepractice service means the application of  
11      telecommunication technology to deliver speech-language pathology at a distance for  
12      assessment, intervention, or consultation.

13      Section 2. For the purposes of this Act, the practice of speech-language pathology is the  
14      application of principles, methods, and procedures related to the development, disorders, and  
15      effectiveness of human communication and related functions including providing prevention,  
16      screening, consultation, assessment/evaluation, diagnosis, treatment/intervention/ management,  
17      counseling, collaboration, and referral services for disorders of speech, language, feeding, and  
18      swallowing, and for cognitive aspects of communication. The practice of speech-language  
19      pathology also includes establishing augmentative and alternative communication techniques  
20      and strategies, including developing, selecting, and prescribing of such systems and devices,  
21      excluding the dispensing and fitting of hearing aids pursuant to chapter 36-24, providing  
22      services to individuals with hearing loss and their families, screening persons for hearing loss  
23      or middle ear pathology using conventional pure-tone air conduction methods, otoacoustic  
24      emissions screening, or screening tympanometry, using instrumentation to observe, collect data,

1 and measure parameters of communication and swallowing, selecting, fitting, and establishing  
2 effective use of prosthetic or adaptive devices for communication, swallowing, or other upper  
3 aerodigestive functions, and providing services to modify or enhance communication  
4 performance.

5 Section 3. No person may practice speech-language pathology or represent himself or herself  
6 as a speech-language pathologist or speech-language pathology assistant in this state, unless  
7 such person is licensed in accordance with this Act. A person represents oneself to be a  
8 speech-language pathologist or speech-language pathology assistant if the person holds himself  
9 or herself out to the public by any means, or by any service or function performed, directly or  
10 indirectly, or by using the terms, speech pathologist, speech therapist, speech teacher, speech  
11 correctionist, speech clinician, language therapist, language pathologist, language specialist,  
12 voice therapist, voice pathologist, logopedist, communicologist, aphasiologist, phoniatriest,  
13 speech-language pathologist assistant, or any variation, synonym, coinage, or other word that  
14 expresses, employs, or implies these terms, names, or functions. A violation of this section is  
15 a Class 2 misdemeanor.

16 Section 4. Any person who holds any speech-language pathologist certificate from the South  
17 Dakota Department of Education as of July 1, 2012, and does not otherwise meet the  
18 qualifications set forth in this Act may apply for and shall be granted a limited license to  
19 practice as a speech-language pathologist as long as:

20 (1) The application is made no later than July 1, 2014; and

21 (2) The applicant complies with the provisions of subdivisions (1), (2), and (7) of section  
22 14 of this Act.

23 The limits of the license shall be determined by the board in rules promulgated pursuant to  
24 chapter 1-26.

Section 5. Nothing in this Act may be construed as preventing or restricting:

- (1) Any person licensed, certified, registered, or otherwise credentialed by this state in professions other than speech-language pathology from practicing that profession;
- (2) Any person certified as a teacher of the deaf;
- (3) The activities and services of any person pursuing a course of study leading to a degree in speech-language pathology or as a speech-language pathology assistant at a college or university if:
  - (a) The activities and services constitute a part of a planned course of study at that institution;
  - (b) The person is designated by a title such as intern, trainee, student, or by other such title clearly indicating the status appropriate to their level of education; and
  - (c) The person works under the supervision of a person licensed by this state to practice speech-language pathology;
- (4) The activities of any person who is not licensed in this state from engaging in the practice of speech-language pathology for the purpose of providing training or continuous education as long as they hold an active license in another state, agree to abide by the standards of professional conduct and do not engage in such activities exceeding five days in any calendar year.

Section 6. Any person who is licensed as a speech-language pathologist in South Dakota may perform assessment, treatment, and procedures related to speech, voice, resonance, and swallowing function using nonmedical endoscopy as long as the person has received training and is competent to perform these procedures. A licensed speech-language pathologist shall have protocols in place for emergency medical backup when performing procedures using an

1 endoscope.

2 Section 7. Any person who is licensed as a speech-language pathologist in South Dakota  
3 may provide speech-language pathology services via telepractice. Services delivered via  
4 telespeech shall be equivalent to the quality of services delivered face-to-face.

5 Section 8. There is hereby created a Board of Examiners for Speech-Language Pathology  
6 under the supervision of the Department of Health. The board shall consist of five members  
7 appointed by the Governor who are residents of this state. Four of the members shall be  
8 speech-language pathologists who are currently practicing speech-language pathology, who have  
9 five years experience practicing speech-language pathology, and who hold a license to practice  
10 speech-language pathology in this state, except for the first speech-language pathologists  
11 appointed who need only meet the eligibility requirements for licensure. At least one of the  
12 members who is a speech-language pathologist shall be employed in a school setting and one  
13 of the members who is a speech-language pathologist shall be employed in a health care setting.  
14 One of the members shall be a representative of the public who is not associated with or  
15 financially interested in the practice or business of speech-language pathology.

16 Section 9. Each appointment to the board shall be for a period of three years except for the  
17 initial appointments which shall be for staggered terms. Each member shall serve until the  
18 expiration of the term for which the member has been appointed or until the member's successor  
19 is appointed and qualified to serve on the board. If a vacancy occurs other than by expiration of  
20 a term, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term.  
21 No member may serve more than three consecutive three-year terms.

22 The Governor may remove any member of the board for unprofessional conduct,  
23 incompetence, or neglect of duty.

24 Section 10. The board shall meet during the first quarter of each calendar year to select a

1 chair and vice chair and to conduct other business. At least one additional meeting shall be held  
2 before the end of each calendar year. Additional meetings may be convened at the call of the  
3 chair or at the request of two or more board members.

4 Four members of the board constitutes a quorum to do business if the majority of the  
5 members present are speech-language pathologists.

6 Section 11. Members of the board shall receive a per diem established pursuant to § 4-7-10.4  
7 and expenses at the same rate as other state employees while actually engaged in official duties.

8 Section 12. The board has the following powers and duties:

9 (1) Administer, coordinate, and enforce the provisions of this Act, evaluate the  
10 qualifications of applicants, supervise the examination of applicants, and issue and  
11 renew licenses;

12 (2) Issue subpoenas, examine witnesses, administer oaths, conduct hearings, and, at its  
13 discretion, investigate allegations of violations of this Act and impose penalties for  
14 any violations;

15 (3) Promulgate rules pursuant to chapter 1-26 to delineate qualifications for licensure,  
16 specify requirements for the renewal of licensure, regulate the delivery of services via  
17 telepractice, establish standards of professional conduct, specify procedures for  
18 suspension and revocation of licensure, establish a schedule of disciplinary actions  
19 for violations of professional conduct, permit inactive licensures, establish  
20 procedures for collection and management of fees and payments, establish  
21 application, biennial licensure, biennial renewal, and late fees not to exceed one  
22 hundred fifty dollars each delineate activities that may or may not be delegated to an  
23 assistant, and specify requirements for supervision of speech-language pathology  
24 assistants based on national guidelines;

- 1       (4)    Have available the names and addresses of persons currently licensed pursuant to the  
2            provision of this Act;
- 3       (5)    Employ personnel in accordance with its needs and budget;
- 4       (6)    Request legal advice and assistance, as needed, from the Office of the Attorney  
5            General;
- 6       (7)    Enter into such contracts as necessary to carry out its responsibilities under this Act;
- 7       (8)    Hire legal counsel;
- 8       (9)    Establish a budget;
- 9       (10)   Submit reports of its operations and finances as required by § 4-7-7.2;
- 10      (11)   Adopt an official seal by which it shall authenticate its proceedings, copies, records,  
11            acts of the board, and licenses;
- 12      (12)   Develop procedures for:
  - 13           (a)   Monitoring a license holder's compliance with the requirements of this Act;
  - 14           (b)   Monitoring a license holder who is ordered by the board to perform certain  
15                acts;
  - 16           (c)   Identifying a license holder who presents a risk to the public; and
  - 17           (d)   Initiating appropriate actions regarding a license holder who presents a risk to  
18                the public;
- 19      (13)   Develop a system for monitoring complaints filed with the board, procedures for  
20            providing assistance to a person who wishes to file a complaint, and a schedule for  
21            disposing of complaints in a timely manner;
- 22      (14)   Communicate disciplinary actions to relevant state and federal authorities including  
23            the National Practitioners Database and the American Speech-Language-Hearing  
24            Association Board of Ethics and to other state speech-language pathology licensing

1 authorities; and

2 (15) Perform any other duties directly related to the administration of the provisions of  
3 this Act.

4 No member of the board is liable for civil action for any act performed in good faith in the  
5 performance of the member's duties as prescribed by law.

6 Section 13. All moneys coming into the custody of the board, including any fees and any  
7 other payments, shall be paid by the board to the state treasurer on or before the tenth day of  
8 each month and shall consist of all moneys received by the board during the preceding calendar  
9 month. The state treasurer shall credit the moneys to the Board of Examiners for Speech-  
10 Language Pathology account, which account is hereby created. The moneys in the account are  
11 hereby continuously appropriated to the board for the purpose of paying the expense of  
12 administering and enforcing the provisions of this Act. The total expenses incurred by the board  
13 may not exceed the total moneys collected.

14 Section 14. To be eligible for licensure by the board as a speech-language pathologist, the  
15 applicant shall:

16 (1) Submit an application, upon a form prescribed by the board;

17 (2) Pay the application fee;

18 (3) Possess a master's or doctoral degree from an educational institution accredited by  
19 the accrediting agency of the American Speech-Language-Hearing Association and  
20 from an educational institution approved by the United States Department of  
21 Education;

22 (4) Complete supervised clinical practicum experiences from an educational institution  
23 or its cooperating programs;

24 (5) Complete a supervised postgraduate professional experience;

(6) Pass a written national examination in speech-language pathology; and

(7) Have committed no act for which disciplinary action may be justified.

Section 15. The board shall waive the qualifications in subdivisions (3), (4), (5), and (6) of section 14 of this Act for any applicant who has filed an application with the board, has paid the application fee, has not committed any act for which disciplinary action may be justified and:

(1) Presents proof of current licensure in a state that has standards that are equivalent to or greater than those of this state; or

(2) Holds a current Certificate of Clinical Competence in Speech Language Pathology from the American Speech-Language-Hearing Association.

Section 16. The board may waive the qualifications in subdivisions (3), (4), and (5) of section 14 of this Act for any applicant who:

(1) Received a professional education in another country if the board is satisfied that equivalent education and practicum requirements have been met; and

(2) Met the examination requirements in subdivision (6) of section 14 of this Act.

Section 17. The board shall issue a provisional license in speech-language pathology to an applicant who:

(1) Except for the postgraduate professional experience, meets the academic, practicum, and examination requirements of this Act;

(2) Submits an application, upon a form prescribed by the board, including a plan for the content of the postgraduate professional experience;

(3) Pays the application fee for a provisional license; and

(4) Has not committed any act for which disciplinary action may be justified.

A person holding a provisional license may practice speech-language pathology only while working under the mentorship of a licensed speech-language pathologist who meets the

1 qualifications of sections 14, 15, or 16 of this Act. The term for a provisional license and the  
2 conditions for its renewal shall be determined by the board in rules promulgated pursuant to  
3 chapter 1-26.

4 Section 18. The board shall issue a speech-language pathology assistant license to an  
5 applicant who:

- 6 (1) Submits an application, upon a form prescribed by the board;
- 7 (2) Pays the application fee;
- 8 (3) Holds an associate's degree in speech-language pathology assisting or a bachelor's  
9 degree with major emphasis in speech-language pathology or communication  
10 disorders from an accredited academic institution;
- 11 (4) Submits an official transcript verifying necessary academic preparation and clinical  
12 experiences;
- 13 (5) Completes a supervised clinical practicum of a minimum of one hundred clock hours  
14 as a speech-language pathology assistant while either on the job or during academic  
15 preparation; and
- 16 (6) Has committed no act for which disciplinary action is justified.

17 Section 19. Any person who is employed as a paraprofessional providing speech-language  
18 pathology services under the direct supervision of a speech-language pathologist who holds a  
19 speech-language pathologist certificate from the South Dakota Department of Education as of  
20 July 1, 2012, and does not otherwise meet the qualifications set forth in this Act may apply for  
21 and shall be granted a speech-language pathology assistant license and may continue to practice  
22 as a speech-language pathology assistant. This exception expires July 1, 2020, at which time all  
23 speech-language pathology assistants shall meet the requirements of this Act.

24 Section 20. An assistant shall be supervised by a licensed speech-language pathologist who

has at least three years of experience as a speech-language pathologist. The supervising speech-language pathologist:

- (1) Is responsible for the extent, kind, and quality of service provided by the assistant, consistent with the board's designated standards and requirements;
  - (2) Shall ensure that persons receiving services from an assistant receive prior written notification that services are to be provided, in whole or in part, by a speech-language pathology assistant;
  - (3) May not supervise more than three speech-language pathology assistants at one time.
- An assistant may have more than one supervisor if the board is notified.

Section 21. The board may impose separately, or in combination, any of the following disciplinary actions on a licensee after formal or informal disciplinary action:

- (1) Refuse to issue or renew a license;
- (2) Issue a letter of reprimand or concern;
- (3) Require restitution of fees;
- (4) Impose probationary conditions;
- (5) Require the licensee to reimburse the board for costs of the investigation and proceeding;
- (6) Suspend or revoke a license;
- (7) Impose practice or supervision requirements, or both; or
- (8) Require licensees to attend continuing education programs specified by the board as to content and hours.

Section 22. If the board imposes suspension or revocation of license, application may be made to the board for reinstatement. If a licensee is placed on probation, the board may require the license holder to:

- 1 (1) Report regularly to the board on matters that are the basis of probation;
- 2 (2) Limit practice to the areas prescribed by the board; or
- 3 (3) Continue or review continuing education until the license holder attains and degree
- 4 of skill satisfactory to the board in those areas that are the basis of the probation.

5 Section 23. The board may take disciplinary actions for the following conduct:

- 6 (1) Fraudulently or deceptively obtaining or attempting to obtain a license or a
- 7 provisional license;
- 8 (2) Fraudulently or deceptively using a license or provisional license;
- 9 (3) Altering a license or provisional license;
- 10 (4) Aiding or abetting unlicensed practice;
- 11 (5) Selling, bartering, or offering to sell or barter a license or provisional license;
- 12 (6) Committing fraud or deceit in the practice of speech-language pathology, including:
- 13 (a) Willfully making or filing a false report or record in the practice of
- 14 speech-language pathology;
- 15 (b) Submitting a false statement to collect a fee;
- 16 (c) Obtaining a fee through fraud or misrepresentation;
- 17 (7) Using or promoting or causing the use of any misleading, deceiving, improbable, or
- 18 untruthful advertising matter, promotional literature, testimonial, guarantee,
- 19 warranty, label, brand insignia, or any other representation;
- 20 (8) Falsely representing the use or availability of services or advise of a physician;
- 21 (9) Misrepresenting the applicant, licensee, or holder by using the term, doctor, or any
- 22 similar word, abbreviation, or symbol if the use is not accurate or if the degree was
- 23 not obtained from a regionally accredited institution;
- 24 (10) Committing any act of dishonesty, immorality, or unprofessional conduct while

1 engaging in the practice of speech-language pathology;

2 (11) Engaging in illegal, incompetent, or negligent practice;

3 (12) Providing professional services while:

4 (a) Mentally incompetent;

5 (b) Under the influence of alcohol;

6 (c) Using any narcotic or controlled dangerous substance or other drug that is in  
7 excess of therapeutic amounts or without valid medical indication;

8 (13) Providing services or promoting the sale of devices, appliances, or products to a  
9 person who cannot reasonably be expected to benefit from such services, devices,  
10 appliances, or products;

11 (14) Violating any provision of this Act, or any lawful order given, or rule adopted, by the  
12 board;

13 (15) Being convicted or pleading guilty or nolo contendere to a felony or to a crime  
14 involving moral turpitude, whether or not any appeal or other proceeding is pending  
15 to have the conviction or plea set aside;

16 (16) Being disciplined by a licensing or disciplinary authority of any state or country, or  
17 any nationally recognized professional organization, or convicted or disciplined by  
18 a court of any state or country for an act that would be grounds for disciplinary action  
19 under this section;

20 (17) Exploiting a patient for financial gain or sexual favors;

21 (18) Failing to report suspected cases of child abuse or vulnerable adult abuse;

22 (19) Diagnosing or treating a person for speech disorders by mail or telephone unless the  
23 person has been previously examined by the licensee and the diagnosis or treatment  
24 is related to such examination; or

1       (20) Violating federal, state, or local laws relating to the profession.

2       The board shall adopt, by rules promulgated pursuant to chapter 1-26, a schedule of  
3       sanctions to be imposed as the result of formal or informal disciplinary activities conducted by  
4       the board.

5       Section 24. The board may take disciplinary action or suspend, revoke, or reissue a license  
6       or certification only after a hearing conducted by a hearing examiner appointed by the board or  
7       by a majority of the members of the board.

8       Any disciplinary proceeding or proceeding relative to the revocation or suspension of a  
9       license or certification shall otherwise conform to the procedure set forth in chapter 1-26.

10      Any decision of the board to discipline, suspend, revoke, or reissue a license or certification  
11      requires a majority vote of the board membership.

12      Any party feeling aggrieved by any acts, rulings, or decisions of the board acting pursuant  
13      to sections 21, 22, or 23 of this Act, has the right to appeal under the provisions of chapter 1-26.

14      Section 25. Any person violating the provisions of this Act may be enjoined from further  
15      violations at the suit of the state's attorney of the county where the violations occurred or suit  
16      may be brought by any citizen of this state. An action for injunction is an alternate to criminal  
17      proceedings, and the commencement of one proceeding by the board constitutes an election.

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

777T0692

## SENATE EDUCATION ENGROSSED NO. **SB 127** - 2/2/2012

Introduced by: Senators Brown, Haverly, Novstrup (Al), Peters, and Tidemann and  
Representatives Cronin and Wink

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding educational data  
2 reporting.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-3-51 be amended to read as follows:

5 13-3-51. The secretary of the Department of Education shall establish a uniform system for  
6 the gathering and reporting of educational data for the keeping of adequate educational and  
7 financial records and for the evaluation of educational progress. Any school district or school  
8 seeking state accreditation shall submit enrollment data, personnel data, and verify all state and  
9 federal standards for accreditation and approval of schools, including those related to safety and  
10 educational equity of the school district or school by October fifteenth of each year. Any school  
11 district with an average daily membership as defined in § 13-13-10.1 of greater than five  
12 thousand in the previous school fiscal year has an additional seven days to submit the required  
13 data. If the due date falls on a weekend or state holiday, the due date is the next business day  
14 following the scheduled due date. Any public school district shall also submit to a survey



1 regarding the district's budget, programs, workforce, or other related data by October fifteenth  
2 of each year, if required by the South Dakota Department of Education. An annual written  
3 evaluation of the educational progress in the state and in each school district shall be submitted  
4 to the Legislature and made available in each school district to the general public. The South  
5 Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to further define the  
6 data required pursuant to this section.